

## **REMARKS**

This responds to the Office Action dated September 7, 2005. Claims 1-46 are pending. No claims have been amended. Reconsideration of the present application in view of the following remarks is respectfully requested.

Applicants note with appreciation the Examiner's withdrawal of the Section 112 rejection set forth in the previous Office Action, and the indication that the references in applicants' Information Disclosure Statement had been considered.

### **Claim Rejections Restated from the January 26, 2005 Office Action**

In paragraphs 5-7 of the Office Action, claims 1-4, 6, 8-11, 13 and 23 (of which claim 1 is independent) were rejected as being obvious over U.S. Patent No. 6,754,672, to McLaughlin ("McLaughlin") in view of U.S. Patent No. 6,434,563, to Pasquali et al. ("Pasquali"). In paragraphs 8-12 of the Office Action, claims 5, 7, 12, 14-19, 24-32, 34-39, 44-46 (of which claims 27 and 44 are independent) were rejected as being obvious over McLaughlin and Pasquali as applied to claim 1, and further in view of U.S. Patent No. 5,737,539 to Edelson et al. ("Edelson"). In paragraphs 13-14 of the Office Action, claims 20-22 and 33 were rejected as being obvious over McLaughlin and Pasquali and further in view of U.S. Patent No. 6,823,478 to Prologo et al. ("Prologo"). In paragraphs 18-19 of the Office Action, claim 43 was rejected as being obvious over the Prologo and Pasquali references in view of McLaughlin.

In each of the above paragraphs, the Examiner stated that the substance of the corresponding rejections is as set forth in the previous Office Action, mailed on January 26, 2005. The Examiner also indicated that applicants' response to the January 2005 Office Action had been considered, but was deemed not persuasive for the reasons set forth in paragraph 2 of the present Office Action. Applicants respectfully submit that the rejections are improper and request reconsideration for the following reasons.

Applicants' response dated June 27, 2005 addressed the substance of the claim rejections set forth in the January 26, 2005 Office Action. Accordingly, to avoid unnecessary repetition, the following discussion focuses primarily on the section in this Office Action entitled Response to Arguments, which appears to suggest that the claim rejections have been maintained in error due to potentially misleading terminology used in the prior art of record.

Specifically, the claim rejections depend on the assertion that the combination of McLaughlin and Pasquali discloses the claim limitations of "at least one portal comprising a

plurality of data viewers, each having access to a data source and being configured to (1) perform analysis of data in the data source and (2) displaying the result of an analysis" (numerals and emphasis added), recited in independent claims 1, 27, and 44. This limitation requires a portal with data viewers, each data viewer having access to a data source and being configured to perform analysis of data in the data source and display the results of the analysis.

In their previous response (*see* page 10), applicants demonstrated that McLauchlin and Pasquali, individually or in combination, fail to disclose at least this claim limitation and, summarizing this conclusion, stated that even assuming that the references can be combined in the manner suggested in the January 2005 Office Action, "such a combination of references would not result in a portal having multiple viewers." *Id.* In the Response to Arguments section of the present Office Action, the Examiner focused only on this summary statement, and maintained the rejection of the subject claims, expressing her disagreement with applicants' reasoning as follows:

Pasquali teaches of portal sites (portal) where a network surfer is presented with a set of pseudo-windows (a plurality of data viewers). ... Pasquali also teaches of web sites (portal) that cause instantiation of additional web browsers (data viewers). (Paragraph 2, emphasis added).

Applicants respectfully submit that the Examiner's grounds for maintaining the claim rejections are improper, as being based on potentially confusing terminology in the applied references, rather than analysis of the claim language.

First, while both McLauchlin and Pasquali refer to the claim term "portal," both patents use it with reference to a particular web site, namely one used as the starting point for a user's Web experience, providing information and services such as news, email, entertainment, shopping, sports and more. For example, Pasquali states: "[s]uch an exemplary web site has become known as a 'portal site' where network surfers can visit, receive content from a variety of sources (e.g., news, financial feeds, etc.) . . ." (Pasquali, col. 2, line 65 - col. 3, line 4). Likewise, McLauchlin states: "FIG. 1 is a schematic diagram of an embodiment of a system 10 including a Web portal 20 allowing multiple users . . . to access most current information from various application systems" (McLauchlin, col. 4, lines 38-47).

By contrast, the claims of the present application specifically recite "at least one portal comprising a plurality of data viewers, each having access to a data source and being

configured to perform analysis of data in the data source and displaying the result of an analysis.” The specification is in accord, referring to the term “portal” as “a tool that can access data from multiple sources, analyze the data and display it.” (See, e.g., page 4, lines 12-14). Clearly, applicants’ “portal” refers to a concept completely different in meaning from the web site “portal” disclosed in the prior art of record.

Pertinent to this analysis, one main difference between web site-type portals, as disclosed in the cited art, and the portals of the present application is illustrated by focusing on the devices that analyze and process data, and the devices that display such data. As noted above, independent claims 1, 27 and 44 require both analyzing data and displaying results to be done by the same device – a data viewer at the portal.

But that is not the case for the web site “portals” discussed in the prior art of record, where data processing is done remotely on a web server, while display of the processed data is done locally by the browser of the user’s computer. Basically, in the art cited by the Examiner the user’s computer is used to send requests and to receive and display replies from a web server, which in turn performs all data analysis and processing. This functional separation between the server system and the client system is clearly illustrated in Fig. 1A of Pasquali. Similar functional separation is present in McLaughlin. Indeed, the Examiner admitted as much by stating in the above-cited paragraph that “web sites (portal) cause instantiation of additional web browsers (data viewers).” While the web site “portal” in the prior may be causing instantiation of additional web browsers on the user’s computer, it does not actually display data, as required by the instant claims. Neither Edelman nor Prologo supplement the teachings of McLaughlin and Pasquali in this regard.

On the other hand, in the present application data is both analyzed and displayed at a viewer in the same “portal.” Applicants’ portals are applications executed on the user’s computer. As recited, such portal(s) access other devices, such as database servers, to retrieve data necessary to produce desired output. However, the data analysis required to produce a desired output is performed by the portal application running on the user’s computer, and the output of the analysis is then displayed by the same portal application running on the user’s computer.

In summary, despite the confusing similarity in the terminology and the fact that the art of record uses the claim term “portal” and discloses multiple viewers, even assuming that the prior art can be combined in the manner suggested by the Office Action, this art, neither

individually nor in combination, discloses, teaches or suggests the claimed “portal having multiple viewers.”

While the focus in this response is on the specific points raised in the Response to Arguments section of the present Office Action, applicants wish to point out that the claim rejections should be withdrawn for other reasons as well. For example, the Office Action fails to address applicants' argument in their June 27, 2005 response that the art of record does not even relate to data management or quality control systems, as recited in claims 1, 27 or 44.

Rejected dependent claims 2-19 and 23-26, 28-32, 34-39, and 45-46 that have either claim 1, 27, or 44 as their base claim are also believed allowable over the combination of McLauchlin and Pasquali as depending upon allowable independent claim.

Based on the above, reconsideration of the claim rejections set forth originally in the January 2005 Office Action is respectfully requested.

#### **New Grounds for the Rejection of Claims 40, 41 and 42**

In paragraph 3 of the Office Action, the Examiner indicated that applicants' responses concerning claims 40-42 were moot in view of the new ground(s) of rejection, set forth in paragraphs 15-17 and 20-21 of the present Office Action.

In particular, paragraph 16 of the Office Action stated that claims 41 and 42 were rejected as being unpatentable over U.S. Patent No. 6,823,478 issued to Prologo et al. (Prologo) in view of Pasquali. The Examiner admitted that Prologo does not teach the step of selecting data from one or more data sets using specified selection criteria, and the use of GUI configured to display concurrently data possibly having different data formats, but asserted that Pasquali teaches these steps and that it would have been obvious to combine Pasquali with Prologo to render the instant claims obvious. Applicants respectfully disagree.

Prologo and Pasquali are references from two completely different fields of technology: Prologo is directed to a method of testing software, while Pasquali teaches configuring the appearance of a web site by manually selecting its content. Contrary to the assertion in the Office Action, one of ordinary skill in the art would have no motivation to combine the two references.

For example, the motivation to combine Prologo and Pasquali stated in the Office Action is that an objective of Prologo's invention is to increase the speed of software testing,

and that allegedly allowing the tester to “view various information concurrently” would advance this objective.

This reasoning is plainly deficient, because while viewing “various information concurrently” may be beneficial in certain contexts, it is not clear at all how it would apply in the context of the Prologo’s software testing system. In particular, it is not clear what different types of information even would need to be viewed concurrently in Prologo, as to result in the speed enhancement benefits suggested in the Office Action.

Any disclosure of selecting data in Pasquali is equally unavailing as motivation to combine the two references as well. For example, the statement cited by the Examiner as disclosing the step of “selecting” in Pasquali reads as follows:

At the Internet and WWW site, [www.yahoo.com](http://www.yahoo.com), for example, network users (a.k.a. “network surfers”) may select topic areas from among a pre-configured hierarchical network index tree to peruse lists of hyper-text links related to a particular field of interest (e.g., business, stocks, stock split announcements). The links found in the hierarchical network index may be manually entered by network surfers via an appropriate “add link” page, or may be entered automatically in response to automatic crawling techniques. (Col. 1, line 66 to col. 2, line 7).

Applicants respectfully submit that this disclosure merely relates to the ability of a computer user to select items from a menu. But this is rather old technology, which in and of itself has nothing to do with software testing. Again, it is not clear why a generic selection mechanism as discussed in Pasquali would provide any motivation to combine the references in the manner suggested in the Office Action. The art of record simply provides no motivation to combine, and the rationale in the Office Action appears to offer little beyond applying hindsight by using the applicants’ inventions as a blueprint – which is impermissible under Federal Circuit precedent.

For the above reasons, applicants respectfully submit that the combination of Prologo and Pasquali used in the new grounds for rejection is improper, and request that the rejection be withdrawn.

Furthermore, even assuming for the sake of the argument, that the two references can be combined in the manner suggested in the Office Action, the combination would still fail to disclose all steps of claims 41 and 42. In particular, as noted above, Pasquali is not concerned with data testing. As to Prologo, the Office Action asserted that the reference discloses “creating a new data set from a selected data set, . . . , (1) wherein the generated

output set is the new data set; and (2) modifying the created new data set . . . , wherein the modification is saving the generated output as the new key file; and (3) comparing one or more modified data sets to a reference data set” (reference numerals and emphasis added). This assertion is clearly inaccurate, because in Prologo the key file is the “reference data set” and there is no disclosure in Prologo about comparing one reference set to another, as the Office Action suggested.

For the above reasons, applicants respectfully submit that the rejection of claims 41 and 42 should be withdrawn.

In paragraphs 20-21 of the Office Action, claim 40 was rejected as being upatentable over U.S. Patent No. 5,737,539 issued to Edelson et al. (“Edelson”) in view of U.S. Patent No. 6,583,798 to Hoek (“Hoek”). The Office Action suggested the use of Edelson for its teaching of “receiving input from a user directing a cursor of a computer mouse to a position over one of the toolbar or menu items,” and of “locating a help file associated with the toolbar or menu.” Hoek was cited for its disclosure of receiving user input corresponding to a click of the right button of the mouse and displaying information in a window. Applicants respectfully traverse the new grounds for the rejection of claim 40.

First, applicants respectfully disagree with the Examiner’s assertion that it would have been obvious to one of skill in the art to combine Edelson and Hoek in the suggested manner. Edelson merely discloses clicking on the standard “Help” button with a mouse or touching it with a stylus, but is not otherwise concerned with methods of providing help to the user, and in particular with “interactive controls that are displayed in proximity to an object for the purpose of reviewing and/or modifying an automatic action performed on or in connection with the object,” which is the technical field of the Hoek patent. (Hoek, at col. 1, lines 5-10). The motivation to combine Edelson and Hoek stated in the Office Action is that “the teachings of both references would be readily apparent to one in the art looking to solve problems related to improving user friendliness aspects in relation to accessing and displaying information via electronic methods.” But such a motivation is clearly so broad as to become void of practical meaning. For example, using the rationale in the Office Action one could combine with Edelson (or Hoek) references that relate to adjusting a desk lamp next to a computer display.

Furthermore, even assuming for the sake of argument that a person of skill in the art would consider the combination of Edelson and Hoek, such person would not find the

claimed solution to be obvious for the simple reason that Hoek specifically criticizes and discredits the use of right click, and thus discourages the claimed solution. In particular, while the Office Action relies on the disclosure of Hoek at col. 1, lines 40-50, it fails to mention that in the very next paragraph Hoek states:

However, usability tests have revealed that the typical user is not aware of the existence of right-click menus. In addition, those users that are aware of right-click menus often do not remember to use them and thus tend to revert to traditional toolbar and menu mechanisms. The difficulty in discovering a right-click menu is amplified in situations where an automatic action, such as a spelling correction, can occur quickly and unnoticeably to the user. In other words, if the user does not recognize that an automatic action has occurred, the user will certainly not appreciate that a right-click menu could be available to undo the automatic action. Furthermore, in some situations, the location of the handle that provides access to a hidden right-click menu may not be apparent to the user. For example, when a pasted object comprises a page of text that includes interspersed white-space, tables and pictures, the user has no way of knowing on what portion of the pasted object she should right-click to expose the context menu. (Hoek, col. 1, line 53 - col. 2, line 3).

Hoek goes on to suggest a solution that avoids the use of right click and its alleged disadvantages. Well-established precedent requires that references be considered in their entirety, including disclosures that teach away from the claims. *See MPEP 2142.02.VI.* This was not done in the present case. Indeed, even the paragraph on which the Office Action relied (Hoek, at col. 1, lines 40-50) fails to disclose the claimed steps of: “receiving user input corresponding to a click of the right button of the mouse;” locating a help file associated with the toolbar or menu item being selected by the click; and displaying information from the help file to the user in a window located near the toolbar or menu item being selected by the click.” In this paragraph Hoek discloses the use of right click in the context of modifying or undoing user actions.

Based on the above discussion, Hoek cannot be used to as a basis of obviousness rejection of claim 40 and applicants respectfully request that the rejection be withdrawn.

#### **Request to Withdraw Finality of the Action**

Paragraph 22 of the Office Action stated that it was made final, allegedly because applicants’ amendment dated June 27, 2005 necessitated the new ground(s) of rejection. Applicants respectfully disagree, and request that the finality be withdrawn.

MPEP §706.07(a) provides that “second or any subsequent actions on the merits shall be made final, except where the examiner introduced a new ground of rejection that is

neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement." Here the Examiner admitted introducing new grounds for the rejection for claims 40-42. (See the Office Action, paragraph 3 stating "In regards, to Applicant's remaining arguments, Applicant's arguments with respect to claims 40, 41 and 42 have been considered but are moot in view of the new ground(s) of rejection."). These new grounds were not necessitated by Applicant's amendments of the claims because claims 41 and 42 were not amended. And these new grounds were not based on information submitted in an Information Disclosures Statement (IDS) because neither of the two references was listed in applicants' IDS.

Furthermore, Hoek was introduced as prior art for the first time in the final Office Action, for its teaching of right click. Applicants' June 2005 amendment of claim 40 could not have necessitated this new ground of rejection, because (a) the amendment broadened the scope of the claim and (b) did not relate to the use of right click. (In the June 2005 amendment, claim 40 was amended to delete the word "pop-up" as a qualifier for the word "window."). Under the rules of practice after final office action, applicants' ability to respond is severely restricted. For example, applicants may only cancel the claim or make minor amendments, and likewise are precluded from asking for an interview as a matter of right. In view of the communications in this case such restrictions are unwarranted.

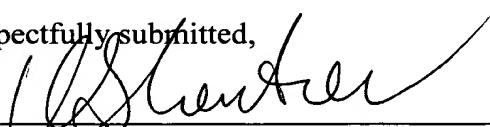
Accordingly, pursuant to MPEP §706.07(a), applicants respectfully request that the finality of the Office Action be withdrawn.

### Conclusion

On the basis of the foregoing, it is respectfully submitted that the present application is in a condition for allowance. A prompt action by the Examiner to this effect is respectfully requested. Should the Examiner have any questions or comments concerning this submission, or any aspect of the application, the Examiner is invited to call the undersigned at the phone number listed below.

Date: February 6, 2006

Respectfully submitted,

  
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